IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 18808 of 2007(L)

PETITIONERS:

----

1. **V. MAMMU, S/O. V.AHAMMED KUTTY,**
   AGED 52 YEARS, EXCEL COTTAGE, KODAMPUZHA ROAD,
   PETTA, FEROKE, KOZHIKODE DISTRICT.

2. **HABEEB REHMAN, S/O. V.AHAMMED KUTTY,**
   CHOORAMUKKIL HOUSE, KODAMPUZHA ROAD, PETTA,
   FEROKE, KOZHIKODE DISTRICT.

3. **V. HASHIM -DO- -DO-.**

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,
ADV. SRI.K.I.SAGEER.

RESPONDENTS:

----

1. **STATE OF KERALA,**
   REP. BY ITS CHIEF SECRETARY TO GOVERNMENT,
   GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE DISTRICT COLLECTOR, KOZHIKODE.**

3. **THE DEPUTY COLLECTOR (LAND REFORMS AND**
   DISTRICT LEVEL TASK FORCE), COLLECTORATE,KOZHIKODE

4. **THE TAHSILDAR, KOZHIKODE.**

5. **THE ADDITIONAL TAHSILDAR,**
   KOZHIKODE TALUK, TALUK OFFICE, KOZHIKODE.

6. **THE VILLAGE OFFICER,**
   RAMANATTUKARA VILLAGE.

7. THE REVENUE DIVISIONAL OFFICER,
CIVIL STATION, KOZHIKODE.

BY GOVERNMENT PLEADER SRI. P.N. SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.18808/2007-L:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE DOCUMENT NO. 2023/1928 OF THE SUB REGISTRY, FEROKE.

EXT.P.2: COPY OF THE DOCUMENT NO. 2414/1936 OF THE SUB REGISTRY, FEROKE.

EXT.P.3: COPY OF THE RELEVANT PORTION OF THE SETTLEMENT DEED BEARING NO. 559/1962 OF THE SUB REGISTRY, FEROKE.

EXT.P.4: COPY OF THE RELEVANT PORTION OF THE DEED NO. 1050/85 DTD. 30/09/85 OF SUB REGISTRAR'S OFFICE, FEROKE.

EXT.P.5: COPY OF THE RELEVANT PORTION OF THE DOCUMENT NO. 2392/97 DTD. 23/07/97 OF THE SUB REGISTRY, FEROKE.

EXT.P.6: COPY OF THE RELEVANT PORTION OF THE DOCUMENT NO. 4035/97 DTD. 15/12/97 OF THE SUB REGISTRY, FEROKE.

EXT.P.7: COPY OF THE RELEVANT PORTION OF THE DOCUMENT NO. 2351/98 DTD. 21/07/98 OF THE SUB REGISTRY, FEROKE.

EXT.P.8: COPY OF THE RELEVANT PORTION OF THE DOCUMENT NO. 3279/98 DTD. 25/09/98 OF THE SUB REGISTRY, FEROKE.

EXT.P.9: COPY OF THE ASSIGNMENT DEED NO. 1820/2005 DTD. 29/03/05 OF THE SUB REGISTRY, FEROKE.

EXT.P.9.A: COPY OF THE ASSIGNMENT DEED NO. 1821/2005 DTD. 29/03/05 OF THE SUB REGISTRY, FEROKE.

EXT.P.9.B: COPY OF THE ASSIGNMENT DEED NO. 1822/2005 DTD. 29/03/05 OF THE SUB REGISTRY, FEROKE.

EXT.P.10: COPY OF THE NOTICE BEARING NO. G5.7865/07 (1) ISSUED BY THE R.5.

EXT.P.10.A: COPY OF THE NOTICE BEARING NO. G5.7865/07 (2) ISSUED BY THE R.5.

EXT.P.10.B: COPY OF THE NOTICE BEARING NO. G5.7865/07 (3) ISSUED BY THE R.5.

EXT.P.11: COPY OF THE EXPLANATION DTD. 22/05/07 SUBMITTED BY THE PETITIONERS 2 AND 3 BEFORE THE R.5.

W.P.(C). NO.18808/2007:

EXT.P.12: COPY OF THE NOTICE DTD. 02/06/07 BEARING NO. G5.7865/07 ISSUED BY THE TAHSILDAR, KOZHIKODE.

EXT.P.13: COPY OF THE LIST OF DOCUMENTS FURNISHED IN RESPONSE TO EXT.P.12.

EXT.P.13.A: COPY OF THE STATEMENT SUBMITTED BY THE PETITIONERS AGAINST THE PROPOSAL MADE IN EXT.P.10 AND P.12.

EXT.P.14: COPY OF THE REPRESENTATION DTD. 12/06/07 SUBMITTED BY THE PETITIONERS BEFORE THE RESPONDENT 1, 2 AND 7.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

ANTONY DOMINIC, J.

W.P.(C) 18808 OF 2007

Dated: December 7, 2007

JUDGMENT

Ext P12 is a notice issued to the petitioner. Though the notice is dated 2.06.07 and signed on 4.06.07, there is no difference of opinion between the parties that it was served on the petitioners only on 6.06.07. By Ext.P12 the petitioner was given 3 days time for production of documents to the effect that they have possession and title over the land in respect of which proceedings were initiated under the Kerala Land Conservancy Act. The third day expired on 9th and that happened to be second Saturday followed by Sunday. Petitioner filed Ext.P13 reply on 11.6.007 and that date is evident from the endorsement of the Tahsildar acknowledging receipt of Ext.P13. The petitioner submits that considering Ext.P13, no further orders were passed by the authorities.

2. It is the contention of the respondents that the order was passed on 9.06.07 and that the same was pasted in the house of the petitioner. It is so stated in paragraph 2 of the counter affidavit.

3. The manner in which the order dated 9.06.07 is passed shows that there has been undue haste in the matter. The time given to the petitioners in Ext.P1 expired only on 9.06.07 which was a holiday. Therefore they were entitled to file their reply to Ext.P12 and produce

documents on 11.06.07. This the petitioners have done. Therefore the respondent ought not have passed the order on 9.06.07 and, that too, when it was a holiday.

4. In the process the petitioners have been denied the opportunity of placing the records that they are relying on in support of their claim for title and possession of the land that is sought to be recovered from their possession. Since the facts disclose that the petitioners were denied a reasonable opportunity of defending their case, on that ground the order dated 9.06.07 deserves to be set aside.

5. Accordingly I set aside the order dated 9.06.07 issued by the Tahsildar. The writ petition is therefore disposed off directing that the 4th respondent shall take into account Ext.P13 and the documents that are produced by the petitioners in response to Ext.P12 and pass fresh orders in that matter with notice to the petitioners.

This, the 4th respondent shall do within 8 weeks of receipt of a copy of this judgment. The petitioners shall produce a copy of this judgment before the 4th respondent for compliance.

ANTONY DOMINIC, JUDGE

mt/-